

**MARIO L. DEL VALLE
TREASURER, FREE CUBA PAC**

November 7, 2002

Jeff S. Jordan, Esq.
Supervisory Attorney
Central Enforcement Unit
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
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Re: FEC Complaint of the National Republican Congressional Committee
Against the Free Cuba PAC, September 26, 2002
FEC MUR Number 5305

Dear Mr. Jordan:

Please accept this letter as the timely response of the Free Cuba PAC to the above referenced complaint (the "Complaint").

1. The Complaint Against the Free Cuba PAC Has No Basis In Fact

The allegations of the Complaint against the Free Cuba PAC are entirely without basis in fact. The Free Cuba PAC has a long history of supporting causes related to freeing Cuba from the control of Fidel Castro. The Free Cuba PAC is entirely independent, and the PAC alone, not its individual donors, determines to whom contributions will be made.

The PAC is not now, and never has been, controlled in any way by Jorge or Aleyda Mas, and no facts exist which would support such an allegation. The contributions made by Jorge and Aleyda Mas on April 9, 2002, were in no way "orchestrated" as alleged in the Complaint, and no facts exist which would support such an allegation. In short, the Complaint against the Free Cuba PAC is entirely without basis in fact, and should be immediately dismissed.

Attached hereto as Exhibit A is my sworn affidavit which clearly shows that the allegations of the Complaint against the Free Cuba PAC have no basis in fact.

2. The Complaint Is Politically Motivated

An examination of the facts will show that politics was the Republican National Congressional Committee's ("RNCC") primary motivation for filing the Complaint. The RNCC clearly filed the Complaint in an attempt to create an issue that would lead to the embarrassment of the Herrera campaign close to election day. Obviously, the RNCC desired the defeat of Mr. Herrera, a Democrat and Cuban-American.

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It appears that the General Counsel for the RNCC, Mr. Donald F. McGahn, filed the Complaint primarily as a vehicle with which to generate negative press coverage of the Herrera campaign. Indeed, following his filing of the Complaint, it appears that Mr. McGahn faxed the entire complaint to numerous newspaper reporters in an attempt to generate negative publicity for the Herrera campaign. Attached hereto as Exhibit B is a copy of the Complaint as faxed by Mr. Donald F. McGahn to Dan Christensen, a reporter with the South Florida Daily Business Review. Indeed, a few days after Mr. Christensen's receipt of the Complaint, in its entirety, from Mr. McGahn, the Daily Business Review published a front-page article regarding the Complaint. Similar articles about the Complaint appeared in Nevada, Mr. Herrera's home state, during the same time period.¹

It is clear that Mr. McGahn sought to create negative publicity for Mr. Herrera, a Democrat and Cuban-American, in both the district in which he was seeking election, as well as in South Florida, a traditional base of support for Cuban-American candidates for office.

In short, the Complaint is not legitimate, but is merely a political ploy by the RNCC to discredit a Democrat candidate for office.

3. Conclusion

The FEC should not waste its limited resources investigating the Complaint with regard to the Free Cuba PAC. There are no facts whatsoever to support the allegations made against the Free Cuba PAC, so no investigation is warranted. Additionally, the Complaint was clearly filed merely as a political tactic to generate negative publicity regarding the Herrera campaign during the election season. The FEC should not legitimize such a political ploy with an investigation under these circumstances.

Accordingly, I respectfully request that the Office of the General Counsel for the Federal Election Commission determine that the Complaint does not warrant the use of the Commission's limited resources, and that the Complaint be immediately dismissed.

Sincerely Yours,



Mario L. Del Valle
Treasurer, Free Cuba PAC

¹ It appears that in his zeal to create negative publicity for the Herrera campaign, Mr. McGahn violated the FEC's regulations by faxing the complaint, in its entirety, to newspapers. 11 CFR 111.21 states in part:

"... no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed..." (emphasis supplied)

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AFFIDAVIT OF MARIO L. DEL VALLE

STATE OF FLORIDA

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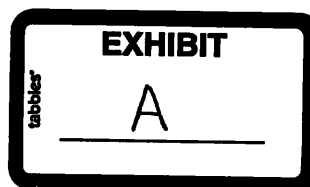
COUNTY OF MIAMI-DADE

NOW BEFORE ME, THE UNDERSIGNED AUTHORITY, DID PERSONALLY COME AND APPEAR:

MARIO L. DEL VALLE

WHO, FIRST BEING DULY SWORN, DID DEPOSE AND SAY:

1. That he is a resident of the State of Florida of the age of majority and is competent to testify regarding the subject matter of this affidavit.
2. That he is the Treasurer of the Free Cuba PAC, and has held this position since 1999.
3. That neither Jorge nor Aleyda Mas has ever held an office for, or served on the Board of Directors of, the Free Cuba PAC.
4. That Jorge and Aleyda Mas are simply two of the numerous contributors to the Free Cuba PAC.
5. That Jorge and Aleyda Mas do not now, nor have they ever, exercised any control over the Free Cuba PAC, or the Free Cuba PAC's use of contributed funds.
6. That the donations made on April 9, 2002, by Jorge and Aleyda Mas to the Free Cuba PAC were, from the standpoint of the Free Cuba PAC, entirely routine.
7. That no conversations between Jorge and/or Aleyda Mas and any representative of the Free Cuba PAC took place regarding using the funds donated to the Free Cuba PAC on April 9, 2002 by Jorge and Aleyda Mas for the support of the Herrera campaign.
8. That there was no "orchestration" of any nature among the Free Cuba PAC, Jorge and Aleyda Mas, and/or the Herrera Campaign regarding the use of the funds donated by Jorge and Aleyda Mas to the Free Cuba PAC on April 9, 2002.
9. That the Free Cuba PAC received no instructions of any nature whatsoever regarding the use of the funds donated by Jorge and Aleyda Mas to the Free Cuba PAC on April 9, 2002.
10. That he has read the Complaint filed with Federal Election Commission by the National Republican Congressional Committee dated September 26, 2002, and assigned MUR Number 5305, (the "Complaint"), and that there are no facts of which he is aware



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that support the allegations made therein regarding any violation of any law or regulation by the Free Cuba PAC.

11. That the Free Cuba PAC did not engage in any actions in violation of Section 441f, or any other law or regulation, as alleged in the Complaint.

12. That the Complaint's allegation that the Free Cuba PAC violated Section 441f, or any other law or regulation, is entirely without basis in fact.

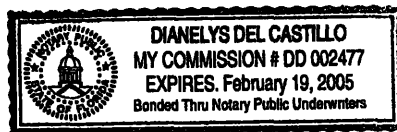


MARIO L. DEL VALLE

SWORN TO AND SUBSCRIBED TO before me this 7th day of November, 2002.



NOTARY PUBLIC



Dianelys del Castillo

Notary Public (Print or Type Name)

My Commission Expires: 2/19/05

Personally known ✓ OR

Produced

Identification _____

Type of Identification Produced _____